

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
John Benoit
Alan Lowenthal



Day: Wednesday, May 20, 2009

Time: 9:30 am

Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

2740 Department of Motor Vehicles.....

Note on the 2009-10 Budget Process: On February 19, 2009, the Legislature approved the 2009-10 Budget Act (SB 1XXX). However, certain items were withheld from the budget, without prejudice, pending a more thorough discussion in the budget subcommittees. Items withheld generally met one or more of the following criteria: (1) were rejected in a prior budget year; (2) have substantial policy implications – for example, information technology or the state's bond capacity; or (3) represent a new program or expansion. Additionally, there are numerous pieces of trailer bill language proposed by the Administration that were not adopted and that require further consideration. The issues in this agenda are these aforementioned issues along with other issues of interest to the Subcommittee.

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2740 Department of Motor Vehicles

Background: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Governor's Budget: The Governor proposes total expenditures of \$963.0 million (no General Fund) and 8,493.1 positions, an increase of \$2.7 million and an increase of 217 positions.

Activity: (in millions):

Activity	2008-09	2009-10
Vehicle/vessel identification and compliance	\$547	\$536
Driver licensing and personal identification	246	258
Driver Safety	117	118
Occupational Lic. And Investigative Services	49	48
New Motor Vehicle Board	2	2
Administration (distributed)	(107)	(107)
TOTAL	\$960	\$963

Major Funding Sources (in millions):

Fund Source or Account	2008-09	2009-10
Motor Vehicle Account (MVA)	\$619	\$887
Motor Vehicle License Fee Account (MVLFA)*	268	0
Reimbursements	15	15
State Highway Account (SHA)	51	52
Federal funds	2	2
Other special funds (no General Funds)	5	7
TOTAL	\$960	\$963

* Proposal to shift MVLFA to local law enforcement was rejected, instead a new 0.15 VLF tax was approved.

Adopted 2009-10 Framework Budget (SB 1XXX): In the adopted framework 2009-10 budget, the Legislature removed funding for the following items "without prejudice for further subcommittee discussion":

- Driver License / Identification Card (DL/ID) Contract (Budget Change Proposal (BCP) #1): \$11.0 million and 16.0 positions in 2009-10 and \$8.1 million ongoing.
- Real ID Act Material Compliance (BCP #3): \$4.2 million and 45.1 positions in 2009-10 and \$3.7 million ongoing [*this BCP has since been withdrawn by DOF*].
- Trailer bill language increasing DL and ID fees by \$3 to fund the above two items.
- Capital outlay funding for new or reconfiguration of existing field-office facilities: \$20.4 million.

General Background on Federal REAL ID Act

Background: On May 11, 2005, President Bush signed H.R. 1268, which includes the Real ID Act of 2005. In 2006, the DMV estimated that implementation of Real ID would cost the State \$500 million to \$750 million. Final regulations from the federal government on the implementation of Real ID were released on January 11, 2008, and delayed full implementation of the Act. Last year, the DMV updated Subcommittee #4 on the final regulations and re-estimated costs over eight years to implement Real ID at \$143 million for “material compliance” and \$303 million for “full compliance.” The primary difference between material and full compliance is that with full compliance, DMV is fully integrated with new national “pointer” databases of birth records and DL/ID cards. DMV has previously testified that it does not have the authority to fully implement the Real ID Act without legislative approval and statutory change.

Detail on Prior State Action: In 2006-07 the Administration submitted, and the Legislature approved, \$18.8 million for information technology (IT) improvements and planning activities to improve DMV’s customer service and data collection – the Department indicated these IT projects were related to Real ID. The Legislature approved the funding and added budget bill language specifying that the funding did not implement Real ID for California, but rather improved efficiencies at the DMV to facilitate implementation at a later date, should enacting legislation be approved. In 2007-08, no budget changes were requested related to Real ID. In 2008-09, the Administration submitted a May Finance Letter requesting authority to spend \$6.5 million in federal grant funds related to Real ID that DMV had applied for. Since no implementing Real ID legislation had been proposed or approved, the request was denied. DMV ended up with a \$3.2 million federal grant (instead of the hoped-for \$6.5 million); however, the grant has multi-year availability and DMV now anticipates a 2010-11 budget request to spend the funds. This year, to date, the DMV has submitted two Budget Change Proposals fully or partially related to the implementation of Real ID, but has not forwarded to the Legislature any statutory change to implement the Act.

Final Federal Real ID Regulations: The final regulations differed in significant ways from the draft regulations. Most significantly, States have until 2017, instead of 2013, to implement the Real ID Act for all license and ID card holders. The final regulations allow states to apply to delay initiation of Real ID (i.e., begin the issuance of materially-compliant ID cards) from May 2008 to January 1, 2010 – DMV indicates it has already applied for, and received approval of, this extension. As a condition of receiving a second extension for “full compliance” to May 2011, States must show progress in working toward “material compliance.”

Material Compliance versus Full Compliance: The DMV indicates that it already meets several criteria of material compliance (such as capturing a digital picture and verifying legal presence in the United States through the Department of Homeland Security [DHS] database) but the department would additionally have to do the

following to meet all criteria for material compliance: require applicant documentation to establish residence address, marking materially compliant cards with a DHS-approved marking; issuing one-year limited-term DL/ID cards when the legal presence document says "Duration of Stay" or has no expiration date; and marking non-compliant cards. DMV believes they would be able to mark non-Real-ID-compliant cards as "California Compliant," but that that marking would have to be approved by the DHS. With budget requests in BCP #1 and BCP #3, the Administration proposes to meet most of the 18 components of material compliance by January 1, 2010. However, the following components would remain unmet under the current Administration proposal: (1) the card would not have the "Real ID compliant" marking and require an amendment to the DL/ID Card contract to mark the Real ID compliant card; (2) California has not made any commitment to Real ID full compliance at this time; and (3) legislation is required to issue two cards: a CA-compliant card and a Real ID material compliant card.

To achieve full compliance by May 11, 2011, the DMV would have to participate in national electronic verification systems that do not currently exist (verification of other states' birth certificates, U.S. passports, and out-of-state DL/ID card verifications). Full compliance requires an existing cardholder to bring in proof of their true full name, legal presence, and two documents that establish their residence address. Other key points of full compliance that California is not currently meeting are: terming Senior Citizen ID Cards to expire in eight years instead of ten; re-verifying legal presence and Social Security Number when a card is renewed or reissued; preventing individuals from holding both a Real ID driver license and a Real ID identification card at the same time; and retaining copies of all source documents.

1. New DL/ID Card Contract (BCP #1).

Background: The Governor requests \$11.0 million (Motor Vehicle Account) and 16 new positions to implement a new information technology (IT) project to produce new driver license and identification (DL/ID) cards. The cost of this new IT contract is \$63 million over a five-year period. The Administration had submitted a Control Section 11.00 request on January 14, 2009, to sign the vendor contract in the 2008-09 fiscal year; however, the Joint Legislative Budget Committee (JBLC) rejected this request indicating that the budget subcommittee process will provide an opportunity for the department to provide a fuller explanation of, and justification for, its proposal, as well as give the Legislature an opportunity to weigh the proposed contract's costs and benefits and consider the policy implications of the proposed changes. Funding for this BCP was removed from the 2009 Budget Act without prejudice to allow further legislative review. An associated \$3 increase in DL/ID fees is discussed separately – see issue #4.

Detail on procurement: DMV's current card contract expires on June 30, 2009. The Department indicates it can extend this contract to June 30, 2010, but that the vendor is unwilling to extend the existing contract beyond June 30, 2010, due to aging equipment that is at risk of failure. DMV did complete the Request for Proposal (RFP) procurement process, and the winning bidder, a company called L1, is also the vendor for the existing contract.

Features of the proposed new card: The new contract would include the use of biometric technology as part of the card issuance process. Automated biometric matching is not part of the current DMV procedure and current-law related to DMV was written prior to the advent of this technology. The new card would additionally include the new "2-D bar code" encrypted technology required by the Real ID regulations. The 2-D bar code would not include any information not printed on the front of the card and not on the existing magnetic stripe. DMV indicates the proposed contract would not include "Real ID Compliant" markings, and that they would intend to proceed with a contract amendment if Real ID is implemented. The card would not use radio frequency (RFID) technology.

Existing Law concerning the privacy of DMV records: The DMV indicates it is directed by both the California Vehicle Code (Sections 1808 and 1810.5) and by the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721). Both laws restrict the use of driver records and data, but allow law enforcement use and other specified use by government agencies. The breadth of use by law enforcement is not specifically defined with regards to biometric technology; however, DMV indicates its current technology only allows a "one-to-one" match, such as requesting the fingerprint and picture of a single individual. It seems technically feasible that the bio-metric technology in the proposed contract could be adapted to allow a "one-to-many" search by law enforcement (i.e., a match of a suspect picture or fingerprint against the totality of DMV data). The DMV indicates that it is not their intent to

implement a one-to-many search for law enforcement, but existing statute does not appear directive on this point.

DMV's proposed use of automated biometric technology. The DMV believes the new biometric technology will help reduce fraud. When a person applies for a card, the new photo image of the applicant will be checked against all existing photo images (one-to-many) to help identify a person who fraudulently has cards under multiple names. The fingerprint would be checked against the file fingerprint (one-to-one) and also to track the individual across multiple stations at the DMV field office (i.e., that the person who submitted the paperwork is the same person who takes the new photo). The ability to use the photo biometric matching against the existing database is uncertain – DMV indicates the technology may only adequately function with higher-quality images that the new system would capture.

LAO Comment: The LAO indicates that the request is not fully justified, in part because the department was unable to provide key information on the specific cost and benefits related to the proposed use of biometrics.

Staff Comment: During the JLBC review of the Section 11.00 letter, concern was raised by privacy advocates over the use of biometric technology. In considering this budget request, the Subcommittee may want to review the specific benefit of adding biometrics to the DL/ID card contract – it is not required by Real ID. It does appear that DMV needs a new DL/ID card contract, because the existing contract would be on its third extension and the equipment is aging. However, the new contract and procedures should also be consistent with the priorities of the Legislature. The Legislature's options would include the following:

- A. Approve the funding and contract as proposed, take no further action.
- B. Approve the funding and contract as proposed, but amend statute related to privacy to specify allowable external use (outside of DMV) of the biometric matching technology.
- C. Adopt budget bill language or statutory change to prohibit biometric-matching technology as part of the DL/ID contract, and approve funding for the modified contract.

Staff Recommendation: Approve the contract and prohibit use of biometric technology. In addition, make the necessary technical change to the contract amount to conform to the staff recommendation (staff will reconcile this dollar amount).

Action:

2. DL/ID fee increase for Card Contract & Real ID.

Background: The Governor requests a \$3 fee increase for DL/ID cards. This fee revenue would go to the Motor Vehicle Account to fund the costs associated with the proposed DL/ID contract (BCP #1) and Real ID staffing (BCP #3). DMV annually issues about 8.3 million cards, so the new fee would result in about \$25 million in annual revenue to fund the costs associated with the new card contract and Real ID. Trailer bill language to implement this fee increase was excluded from the adopted 2009 Budget Act package to allow further legislative review.

Staff Comment: The Legislature may want to conform action on the fee increase to the final action taken on BCPs #1 and #3. The card contract adds approximately \$1 to the current cost of the cards, and the remainder of the new revenue would be attributable to Real ID. While 2009-10 cost would fall below the new revenue, the Administration indicates ongoing cost pressure on the Motor Vehicle Account (MVA). The Administration wants the fee increase to deal with both 2009-10 costs and ongoing cost growth.

Staff Recommendation: Staff will reconcile with LAO/DMV/DOF for the actual amount of a fee increase necessary to conform to the action in Issue #1.

Action:

3. Construction or Renovation of State-owned Facilities (BCP #2).

Background: The Administration requests \$21.6 million (special funds) in 2009-10 for eight capital outlay projects for state-owned facilities. When future construction costs are added, the total costs for these projects, in 2009-10 through completion, is \$62.6 million. Funding for this BCP was removed from the 2009 Budget Act without prejudice to allow further legislative review.

Detail: According to the 2008 California Infrastructure Plan, DMV occupies 98 state-owned facilities, 117 leased facilities, and shares an additional 12 facilities with other state agencies. The Administration generally submits three budget requests over multiple years to complete a State-owned capital outlay facilities project. The first step is preliminary plans, the second step is working drawings, and the third step is construction. The eight projects and phases are as follows:

- **Oakland Field Office Reconfiguration (Working Drawings and Construction):** \$155,000 is requested for working drawings and \$2.1 million is requested for construction – both in 2009-10. The Legislature previously approved \$145,000 for preliminary plans. This project is related to a 2008-09 BCP in order to consolidate the Oakland telephone service center into a new Central Valley facility. With the space opened up in the existing Oakland facility, the DMV would then reconfigure the second floor of the existing Oakland field office to house a DMV Business Service Center.
- **Fresno DMV Field Office Replacement Project (Working Drawings) –** \$1.1 million is requested for working drawings. The Legislature previously approved \$912,000 for preliminary plans. An additional \$18.9 million will be requested in the out-years to fund construction. This project will replace the existing facility at 655 West Olive Avenue that is 46 years old and is deficient in size and does not comply with current safety and accessibility codes. The DMV intends to meet a Leadership in Energy & Environmental Design (LEED) silver certification.
- **Stockton Field Office Reconfiguration (Construction Phase):** \$2.9 million is requested for 2009-10. The Legislature previously approved \$309,000 for preliminary plans and \$310,000 for working drawings. Separately, a new Stockton field office is being constructed, and this BCP converts the existing facility (at 710 North American Street) into a stand-alone driver-safety office.
- **Victorville Field Office Reconfiguration (Construction Phase):** \$3.4 million is requested for 2009-10. The Legislature previously approved \$331,000 for preliminary plans and \$308,000 for working drawings. DMV proposes to address physical infrastructure deficiencies by adding additional production terminals and expanding parking capacity.
- **San Bernardino Field Office Reconfiguration (Construction Phase):** \$2.1 million is requested for 2009-10. The Legislature previously approved \$217,000 for preliminary plans and \$198,000 for working drawings. This project

would add capacity to the existing office by shifting the current dealer vehicle registration workload to leased space and adding additional production terminals and lobby space.

- **Redding Field Office Reconfiguration (Construction Phase):** \$3.0 million is requested for 2009-10. The Legislature previously approved \$258,000 for preliminary plans and \$239,000 for working drawings. This project would add capacity to the existing office by adding additional production terminals and lobby space.
- **Fontana DMV Field Office Replacement Project (Site Acquisition and Preliminary Plans)** – \$4.0 million is requested for site acquisition and preliminary plans. Future out-year budget requests are anticipated at \$756,000 for working drawings and \$12.4 million for construction. This project will replace the existing facility in Fontana with a new building more than twice the size. The existing facility would later be converted into a DMV Business Service Center. The DMV intends to meet a Leadership in Energy & Environmental Design (LEED) silver certification.
- **Roseville DMV Field Office Replacement Project (Site Acquisition and Preliminary Plans)** – \$2.7 million is requested for site acquisition and preliminary plans. Future out-year budget requests are anticipated at \$536,000 for working drawings and \$8.5 million for construction. This project will replace the existing facility in Roseville with a new building more than twice the size. The DMV intends to meet a Leadership in Energy & Environmental Design (LEED) silver certification.

Staff Comment: Given the number of aging facilities and growing state population, it is understandable that in any given year, the DMV has a number of facilities projects. The DMV is minimizing costs in many cases by reconfiguring existing facilities instead of building entirely new offices.

A concern this year is the overall economic and budgetary environment. The LAO and the Administration have previously identified approximately \$70 million per year in Motor Vehicle Account revenues that are not restricted by the Constitution and could be transferred to the General Fund. The budget package approved in February did not include this transfer. However, it is possible additional budget solutions may be necessary after the May Revision revenue forecast is released.

Staff Recommendation: Adopt the capital outlay BCP. However, DMV should be mindful that the Legislature may have to revisit this BCP given the State's overall cash and budgetary situation.

Action:
